

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**SB 908 - HB 1025**

February 10, 2022

**SUMMARY OF BILL AS AMENDED (013424):** Revises the sentence structure for criminal offenses. Requires the Commissioner of the Department of Correction (DOC) to establish a work-release program to provide eligible inmates with work-release opportunities at local businesses. Requires businesses selected to participate in the program to pay inmates a regular wage, to be held in the inmate's trust fund account while incarcerated. Limits the authority of the Board of Parole (BOP) to determine eligibility, grant, revoke or rescind parole to inmates serving a sentence of imprisonment for an offense committed prior to July 1, 2022. Requires the Director of Probation and Parole to determine eligibility, grant, revoke and rescind supervised release to inmates serving a sentence of imprisonment for an offense committed on or after July 1, 2022.

**FISCAL IMPACT OF BILL AS AMENDED:**

**Increase State Revenue – \$1,500,000/FY22-23/Finance and Administration**

**Increase State Expenditures – \$10,961,800 Incarceration**

**Exceeds \$2,226,100/FY22-23/General Fund**

**Exceeds \$216,900/FY23-24 and Subsequent Years/General Fund**

**Decrease State Expenditures – \$3,600/FY22-23 Incarceration**

**\$2,926,800/FY23-24 Incarceration**

**Other Fiscal Impact – Decreases in incarceration expenditures will continue through FY31-32. Exact amounts of annual decreases over the next 10 years are included below.**

**In future fiscal years, there will be a decrease in state expenditures to the Board of Parole (BOP) as a result of changes in parole oversight. The timing and amount of any decreases in state expenditures associated with such changes are dependent upon multiple unknown factors and cannot be quantified with reasonable certainty. In addition, there will be an unknown shift of funding from the BOP to DOC for psychological evaluations of certain inmates. The BOP had a budget of \$8,796,700 in FY21-22.**

The proposed legislation may result in an increase in expenditures to the General Fund resulting from changes in oversight to the Department of Correction's justice-involved population; however, the timeframe, extent, and total fiscal impact, if any, cannot be estimated with reasonable certainty at this time.

Assumptions for the bill as amended:

- The proposed legislation specifies the terms of imprisonment outlined in Tenn. Code Ann. § 40-35-111, compiled in the table (in years) below, are the authorized terms of imprisonment and fines for felonies committed prior to July 1, 2022.

Class	Minimum	Maximum	Fine
A	15	60	\$50,000
B	8	30	\$25,000
C	3	15	\$10,000
D	2	12	\$5,000
E	1	6	\$3,000

- The proposed legislation further creates terms of imprisonment and fines applicable for felonies committed on or after July 1, 2022 compiled in the table (in years) below.

Class	Minimum	Maximum	Fine
A	8	25	\$50,000
B	3	15	\$25,000
C	2	7	\$10,000
D	1	5	\$5,000
E	0.75	3	\$3,000

- The proposed legislation also revises sentence ranges. The table (in years) below outlines ranges, pursuant to Tenn. Code Ann. § 40-35-112, for offenses committed prior to July 1, 2022.
- The proposed legislation outlines sentence ranges for offenses committed on or after July 1, 2022 as outlined in the table (in years) below:

Felony Class	Range I		Range II		Range III	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
A	8	10	10	13	13	25
B	3	4	4	8	8	15
C	2	3	3	5	5	7
D	1	2	2	4	4	5
E	0.75	1.25	1.25	2	2	3

- The proposed legislation specifies that release eligibility calculations pursuant to Tenn. Code Ann. § 40-35-501, as outlined in the table (in years) below, are applicable for offenses occurring prior to July 1, 2022.
- The proposed legislation specifies that for certain offenses occurring on or after July 1, 2022, an inmate is not eligible for supervised release if the sentence imposed is for a period of less than one year.
- An inmate is not eligible for supervised release until serving 100 percent of the sentence imposed minus one year if the sentence imposed is two or more years; or six months if the sentence imposed is more than one year but less than two years, which may be served on supervised release. Further, the language specifies that the sentence of an especially mitigated offender is reduced by 10 percent of the Range I minimum sentence, as outlined in the table (in years) below.

Class	Range I				Range II		Range III	
	Mitigated							
	100% - 10% - 1 yr		100% - 1 yr		100% - 1 yr		100% - 1 yr	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
A	3.50	8	4	9	9	13	13	19
B	1.70	2.6	2	3	3	9	9	14
C	2.00	1.7	2	2	2	3	3	5
D	1.00	2	1	2	2	2	2	4
E	0.75	1.25	0.75	1.25	1.25	2	2	2

- This analysis estimates the highest cost for admissions in the next 10 years; therefore, any additional time added by the proposed legislation resulting in sentences exceeding 10 years in length surpass the window of this analysis. Estimates in the tables below calculate the highest cost in the 10-year window of analysis.
- The proposed legislation specifies only inmates with felony sentences of more than one year or consecutive felony sentences equaling a term greater than one year are eligible for supervised release consideration; therefore, this analysis does not calculate one year of supervised release for average sentences less than one years in length.
- This analysis uses the information below in calculations to estimate the impact of the changes outlined in the proposed legislation:

Data for Estimates	
Population Growth	1.074
Daily Rate	
State	\$51.36
Local	\$48.77
Recidivism	
1 Year	0.3248
2 Years	0.4212
3 Years	0.4584

- The proposed legislation is estimated to lead to the changes to incarceration in tables outlined below calculated by sentence range.

Range I							
Class	Admissions	Average Sentence	Average Time Served	Estimated Change	1 Year Parole	Estimated Additional Time	Estimate
A	72	17.95	9.34	9.00	8.18	-1.17	\$ (1,585,500)
B	1,193	8.91	2.82	3.50	2.63	-0.19	\$ (4,436,000)
C	2,325	4.28	1.73	2.50	1.68	-0.06	\$ (2,510,200)
D	1,730	2.73	1.05	1.50	1.18	0.13	\$ 2,928,800
E	1,210	1.63	0.62	1.00	0.68	0.06	\$ 932,700
Increase Estimate							\$ 3,861,500
Decrease Estimate							\$ (8,531,700)

Range II							
Class	Admissions	Average Sentence	Average Time Served	Estimated Change	1 Year Parole	Estimated Additional Time	Estimate
A	6	28.76	10.49	11.50	10.68	0.19	\$ -
B	116	13.56	5.01	6.00	5.13	0.12	\$ 180,600
C	367	7.57	3.18	4.00	3.18	-0.01	\$ (35,700)
D	235	5.29	2.15	3.00	2.36	0.21	\$ 637,700
E	266	2.91	1.27	1.63	1.30	0.03	\$ 115,100
Increase Estimate							\$ 933,400
Decrease Estimate							\$ (35,700)

Range III							
Class	Admissions	Average Sentence	Average Time Served	Estimated Change	1 Year Parole	Estimated Additional Time	Estimate
A	1	38.5	21.79	19.00	18.18	-3.62	\$ -
B	12	21.84	8.35	11.50	10.63	2.28	\$ 186,700
C	61	11.03	5.2	6.00	5.18	-0.03	\$ (29,300)
D	47	9.04	3.63	4.50	3.86	0.23	\$ 140,300
E	55	4.55	1.92	2.50	2.02	0.10	\$ 74,700
Increase Estimate							\$ 401,700
Decrease Estimate							\$ (29,300)

Career							
Class	Admissions	Average Sentence	Average Time Served	Estimated Change	1 Year Parole	Estimated Additional Time	Estimate
A	2	28.77	10.78	25.00	24.18	13.40	\$ -
B	11	14.66	8.01	15.00	14.13	6.12	\$ 225,200
C	18	8.93	4.99	7.00	6.18	1.19	\$ 227,200
D	14	10.07	4.56	5.00	4.36	-0.20	\$ (55,900)
E	22	5.61	2.29	3.00	2.52	0.23	\$ 67,400
Increase Estimate							\$ 519,800
Decrease Estimate							\$ (55,900)

Mitigated							
Class	Admissions	Average Sentence	Average Time Served	Estimated Change	1 Year Parole	Estimated Additional Time	Estimate
A	8	15.01	5.78	7.20	6.38	0.60	\$ 57,600
B	15	7.68	3.44	2.70	1.83	-1.61	\$ (507,100)
C	7	3.65	1.42	1.80	1.48	0.06	\$ 5,700
D	5	2.07	0.94	0.90	NA	-0.04	\$ (3,900)
E	1	1.12	0.53	0.68	NA	0.15	\$ 3,000
Increase Estimate							\$ 66,300
Decrease Estimate							\$ (511,000)

- The proposed legislation specifies sentencing ranges for multiple offenses. The chart below outlines the offenses expected to experience a change in incarceration in the next 10- year period. Offenses highlighted are currently required to serve 100 percent of the sentence imposed, pursuant to Public Chapter 563 (2021):

Offense	Admissions	Time Sentenced	Time Served	Estimated Sentence	1 Year parole	Estimated Additional Time	Estimate
AGGRAVATED ASSAULT RESULT IN DEATH	2.80	7.84	3.09	5.0	4.18	1.09	\$42,500
DOMESTIC ASSAULT - 3RD OR SUBSQ - PRIORS	1.80	1.81	0.62	2.0	1.52	(0.29)	(\$11,500)
ATT FIRST DEGREE MURDER/SERIOUS BODILY INJURY	7.20	18.66	5.72	13.0	12.18	6.46	\$325,900
AGGRAVATED KIDNAPPING	23.80	11.87	9.80	8.0	7.13	(2.67)	(\$1,212,600)
TRAFFICKING SEXUAL SERVITUDE	2.20	9.46	4.71	8.0	7.13	(2.33)	(\$88,000)
AGGRAVATED ROBBERY	256.40	9.55	5.78	8.0	7.13	1.35	\$3,846,400
RAPE	35.20	9.82	8.23	8.0	7.13	(2.69)	(\$808,800)
AGGRAVATED SEXUAL BATTERY	83.70	10.84	8.34	8.0	7.13	(3.71)	(\$4,561,000)
SEXUAL BATTERY	31.00	2.59	1.45	2.0	1.52	(1.07)	(\$649,800)
AGGRAVATED STATUTORY RAPE	36.50	3.60	1.70	4.0	3.36	(0.25)	(\$169,600)
INDECENT EXPOSURE VICTIM<13-SCHOOL/DAYCARE	0.50	2.60	1.45	2.0	1.52	(1.08)	(\$10,200)
INDECENT EXPOSURE(<13)/2ND OR MORE CONV.	0.40	2.13	1.41	2.0	1.52	(0.61)	(\$4,600)
PROMOTING PROSTITUTION	3.30	1.82	0.79	2.0	1.52	(0.30)	(\$2,300)
CONTINUOUS SEX ABUSE OF CHILD	1.00	20.00	7.00	8.0	7.13	(12.87)	(\$54,400)
SEXUAL BATTERY BY AN AUTHORITY FIGURE	13.90	5.15	2.75	5.0	4.18	(0.98)	(\$266,200)
SOLICITATION OF A MINOR	2.33	10.00	3.64	8.0	7.13	(2.87)	(\$108,300)
SOLICITATION OF A MINOR	7.33	4.00	2.06	5.0	4.18	0.18	\$3,900
SOLICITATION OF A MINOR	1.00	4.00	0.81	4.0	3.36	(0.65)	(\$12,800)
SOLICITATION OF A MINOR	4.67	2.75	0.95	2.0	1.52	(1.23)	(\$121,200)
SOLICITING SEXUAL EXPLOITATION OF A MINOR	3.30	7.33	4.81	8.0	7.13	(0.20)	(\$11,400)
STATUTORY RAPE BY AUTHORITY FIGURE	5.80	4.65	2.85	5.0	4.18	(0.48)	(\$55,400)
PROMOTING TRAVEL FOR PROSTITUTION	0.10	4.00	no releases	4.0	3.36	(0.65)	(\$1,200)
INVASION PRIVACY-REASON EXPECT OF PRIVACY <13	0.20	1.00	no releases	2.0	1.52	0.52	\$2,000
AGGRAVATED BURGLARY	118.20	8.38	3.76	5.0	4.18	0.42	\$641,000
AGGRAVATED BURGLARY W/QUAL PRIORS	0.20	6.50	1.36	5.0	4.18	2.82	\$5,300
INCEST	7.80	5.38	3.35	5.0	4.18	(1.21)	(\$185,000)
CHILD ABUSE AND NEGLECT (UNDER 6)	32.70	3.33	1.25	4.0	3.36	0.02	\$2,400
CHILD ABUSE AND NEGLECT (UNDER 6)	1.60	2.20	0.56	2.0	2.00	(0.20)	(\$4,000)
AGGRAVATED CHILD ENDANGERMENT (2013)	0.40	8.00	1.85	8.0	7.13	(0.87)	(\$6,500)
AGGRAVATED CHILD NEGLECT (2013)	1.80	9.57	2.64	8.0	7.13	(2.44)	(\$90,300)
SCHED I DRUGS: \$100K FINE W/QUAL PRIORS	0.20	8.00	2.84	8.0	7.13	4.29	\$68,200
SEXUAL EXPLOITATION OF A MINOR 0/100 IMAGES	13.30	8.97	6.55	8.0	7.13	(1.84)	(\$453,800)
AGGR. SEXUAL EXPLOIT OF A MINOR, 0/25 IMAGES	1.30	9.08	6.47	8.0	7.13	(1.95)	(\$37,100)
AGGR. SEXUAL EXPLOITATION OF A MINOR	5.50	4.89	2.65	5.0	4.18	(0.72)	(\$67,900)
ESP. AGGR. SEX EXPLOITATION OF A MINOR	5.80	9.73	6.17	8.0	7.13	(2.60)	(\$295,000)
DUI 6TH OR SUBSEQUENT	7.90	5.32	1.08	5.0	4.18	3.10	\$241,500
						TOTAL INCREASE	\$5,179,100
						TOTAL DECREASE	(\$9,288,900)

- The increase in incarceration costs are estimated to be the following over the next ten-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 875,500	FY22-23
\$ 3,884,200	FY23-24
\$ 4,673,700	FY24-25
\$ 5,323,300	FY25-26
\$ 5,664,700	FY26-27
\$ 6,742,400	FY27-28
\$ 9,718,400	FY28-29
\$ 10,215,800	FY29-30
\$ 10,553,700	FY30-31
\$ 10,961,800	FY31-32

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next ten fiscal years; therefore, the recurring increase in state incarceration expenditures will be \$41,218,300.
- The decrease in incarceration costs is estimated to be the following over the next ten-year period:

Decrease in State Expenditures	
Amount	Fiscal Year
(\$3,600)	FY22-23
(\$2,926,800)	FY23-24
(\$8,160,600)	FY24-25
(\$9,270,800)	FY25-26
(\$9,850,500)	FY26-27
(\$10,089,900)	FY27-28
(\$10,193,800)	FY28-29
(\$12,784,600)	FY29-30
(\$16,820,200)	FY30-31
(\$19,788,600)	FY31-32

#### *Offender Management System*

- The proposed legislation will necessitate changes to the offender management system, resulting in a one-time increase of state expenditures from the General Fund in FY22-23 estimated to be \$1,500,000 to pay for analysis, coding, and testing performed by the Department of Finance and Administration's Division of Strategic Technology Solutions (STS) and a corresponding one-time increase in revenue estimated to be \$1,500,000 to STS as payment for such work.

- The proposed legislation will require extensive changes to the offender management system and require a one-time increase in contract expenditures from the General Fund estimated to be \$500,000 in FY22-23.
- The total one-time increase in state expenditures from the General Fund in FY22-23 resulting from changes to the offender management system is estimated to be \$2,000,000 (\$1,500,000 + \$500,000).
- The proposed legislation will necessitate two additional Sentence/Docking Analysts for Sentence Management Services to calculate and manage sentence changes.
- The recurring salary and benefits for each of the two positions is estimated to be \$49,467 (\$36,636 salary + \$12,831 benefits) per position.
- Additionally, each of these positions will require recurring funding for travel, supplies, training, etc. estimated to be \$9,000 per position.
- The one-time increase in state expenditures in FY22-23 associated with the two positions is \$9,200 (\$4,600 computer and office set up x 2).
- The total one-time increase in state expenditures from the General Fund in FY22-23 associated with these positions is estimated to be \$126,134 {[\$49,467 + \$9,000) x 2] + \$9,200}.
- The total recurring increase in state expenditures from the General Fund in FY23-24 and subsequent fiscal years associated with these positions is estimated to be \$116,934 [(\$49,467 + \$9,000) x 2].

#### *Work-Release Program*

- The DOC currently offers a work-release program for approved inmates at four facilities.
- Any costs to the DOC associated with the work-release program required by the proposed legislation is assumed to be absorbed within existing resources.

#### *Changes to Parole Oversight*

- Pursuant to Tenn. Code Ann. § 40-28-104 – 105, the Board of Parole (BOP) is authorized to determine eligibility, grant, revoke or rescind parole to inmates serving a sentence of imprisonment.
- The proposed legislation limits the authority and jurisdiction of the BOP to offenders serving a sentence for an offense committed prior to July 1, 2022, and requires the Director of Probation and Parole, within DOC, to determine eligibility, grant, revoke and rescind supervised release to inmates serving a sentence of imprisonment for an offense committed on or after July 1, 2022.
- Limiting the authority of the BOP to only offenses committed prior to July 1, 2022 will result in a decrease of cases heard by the Board overtime and ultimately, the Board would cease operations entirely.
- The DOC will see an increase in workload and staffing requirements as a result of these new parole and supervised release requirements. Due to the requirement that an inmate serve 100 percent of the sentence imposed minus one year, which may be served on supervised release, for felony sentences of more than one year, beginning with offenses committed on or after July 1, 2022, the earliest the DOC will experience an increase in expenditures associated with these new parole and supervised release requirements is FY23-24.



- As the number of offenders eligible for parole and supervised release considerations under DOC's jurisdiction increases, DOC may require additional Probation/Parole Officers in future fiscal years. Due to a number of unknown factors, including but not limited to, the current workload across the state, how the additional workload will be spread across the state, and how the decreased time for parole and supervised release will impact the flow of offenders entering and exiting the parole and supervised release system, the timing and extent of the increased workload cannot reasonably be determined at this time.
- In addition, the proposed legislation requires any inmate convicted of a sex crime, prior to them being released on supervised release, to be examined and evaluated by a psychiatrist or licensed psychologist whose services are to be contracted or funded by DOC.
- Pursuant to Tenn. Code Ann. § 40-28-116, BOP is required to fund psychiatric evaluations of any person convicted of a sex crime prior to being released on supervised release. A search of BOP contracts identified an interagency agreement with the Department of Mental Health and Substance Abuse Services for offender evaluations. The annual contract is for \$108,000 for 120 evaluations at \$900 per evaluation. It is unknown if this agreement is currently used for the mandated sex offender evaluations, but it is reasonable to assume the DOC will incur a similar cost to provide similar evaluations, resulting in an increase in expenditures exceeding \$100,000.

#### *Total State Impact*

- The total increase in state expenditures to the General Fund is estimated to be \$2,226,134 (\$2,000,000 + \$126,134 + \$100,000) in FY22-23 and \$1,807,628 (\$116,934 + \$100,000) in FY23-24 and subsequent years.

#### *Other Considerations*

- The proposed legislation may lead to an increase in expenditures to the General Fund associated with changes in oversight to the DOC's justice-involved population. However, due to unknown factors, including: the capacity of existing facilities, the timing of any sentence imposed, parole considerations, and changes to the timing and duration of parole, a precise fiscal impact cannot be reasonably determined at this time.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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